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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,075	08/26/2003	Charles L. Euteneuer	S63.3-6399-US04	3370
490 7590 08/04/2009 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
08/04/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/648,075

**Applicant(s)**

EUTENEUER ET AL.

**Examiner**

Vy Q. Bui

**Art Unit**

3773

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-52 is/are pending in the application.
- 4a) Of the above claim(s) 36-38, 48 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-35, 40, 42-47 and 50-52 is/are rejected.
- 7) ☒ Claim(s) 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/9/09; 4/15/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of invention as shown in Fig. 6 in the reply filed on 11/21/2007 is acknowledged.

Claims 32-35, 39-40, 42-47 and 50-52 read upon the elected species shown in Fig. 6. Claims 36-39, 48-49 do not read upon elected Fig. 6 are therefore withdrawn from further consideration.

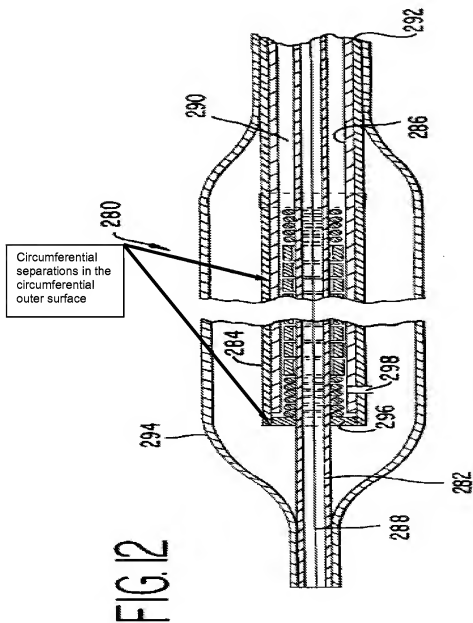
### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 32-35, 40, 45-47, 50-52 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Waksman et al-5,899,882.

As to claims 32-35, 40, 45-46, 50-52, Waksman (Fig. 12, for example) discloses inner shaft 282, balloon 294 can be used with a stent (not shown) as a stent deployment balloon (col. 33, lines 18-20), rings 296, 286 and 284 as a mounting body secured to inner shaft 282 by ring 296. Ring 284 defines two cylindrical outer surfaces parallel to the longitudinal axis of the device, the outer surface closer to the longitudinal axis of the device defines two circumferential separations between ring 284 and ring 286 or ring 296. Notice that a tubular body, such as 286 or 284, can be considered as an elongated ring. Further, a polymeric material is well known for making a flexible catheter for easy navigation in a tortuous vessel and resilient of a radial pressure to resist kinking of the catheter. Elongated rings 286 and 284 must inherently resilient to a radial pressure to resist kinking of the catheter shown in Fig. 12 and must inherently be

resilient to come back to a circular cross section after a deformation to an oval cross section due to a radial deformation.



Alternatively, Waksman-'882 does not explicitly disclose the material of ring 284 or 286 is resilient. However, polymer material, which is flexible and resilient, is well known for making catheter. It would have been obvious to one of ordinary skill in the art to recognize that a polymeric ring 284 or 286 will resiliently deform under a radial pressure.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claim 32, 35, 42, 45, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waksman et al-5,899,882 in view of Danforth et al.-5,192,295.

As to claim 32, 35, 42, 45, 52, Waksman (Fig. 12, for example) discloses inner shaft 282, balloon 294 can be used with a stent (not shown) as a stent deployment balloon (col. 33, lines 18-20), rings 296, 286 and 284 as a mounting body. Notice that a tubular body, such as 286 or 284, can be considered as an "elongated" ring. Further, a polymeric material, such as a resilient elastomeric material to form a catheter is well known for making a flexible catheter for easy navigation in a tortuous vessel and resilient of a radial pressure to resist kinking of the catheter. For example, Danforth-'295 (Fig. 6A-6F; C 11, L 41-57) discloses resilient catheter portion 78 made of an elastomeric material. It would have been obvious to one of ordinary skill in the art to make elongated rings 286 and 284 of a resilient elastomeric material as this material is well known resilient material suitable for making a catheter, and naturally, this resilient elastomeric catheter will resiliently deforms under radial pressure outwardly or inwardly.

2. Claims 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waksman et al-5,899,882.

As to claims 41-44, Waksman discloses substantially the claimed invention, except for mounting body including rings 22 made of a polyethylene or a silicone. However, polyethylene, and silicone are well known biocompatible materials for making a catheter deployable inside a body. It would have been obvious to one of ordinary skill in the art to make ring 286 or ring 284 of a silicone or a polyethylene because ring 286 will be biocompatible and deployable inside a body.

3. Claims 32, 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waksman et al-5,899,882 in view of Danforth et al.-5,192,295.

As to claims 32, 45, 47, Waksman (Fig. 10A; C 19, L 24 to C 20, L 4) discloses substantially the claimed invention: mounting body including elongated ring 258 or 268 covering rings 22 having circumferential separations, radiopaque materials 270, centering balloon 256 for a angioplasty procedure or a stent deployment, except for sleeve 258/268 of a material which resiliently deform under radial pressure. However, a polymeric material, such as a resilient elastomeric material to form a catheter is well known for making a flexible catheter for easy navigation in a tortuous vessel and resilient of a radial pressure to resist kinking of the catheter. For example, Danforth-'295 (Fig. 6A-6F; C 11, L 41-57) discloses resilient catheter portion 78 made of an elastomeric material. It would have been obvious to one of ordinary skill in the art to make elongated rings 258/268 of a resilient elastomeric material as this material is well known resilient material suitable for making a catheter, and naturally, this resilient elastomeric catheter will resiliently deforms under radial pressure outwardly or inwardly.

***Allowable Subject Matter***

Claim 39 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to the above amended claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.